

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY MAY 2, 2012

AMENDED IN ASSEMBLY APRIL 12, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 1835**

**Introduced by Assembly Member Fletcher  
(Coauthor: Assembly Member Beth Gaines)**

February 22, 2012

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An act to amend ~~Sections~~ *Section* 290.07 and 3000.08 of the Penal Code, relating to sex crimes.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1835, as amended, Fletcher. ~~Sex offenders: probation conditions: offenders.~~

Existing law, the Sex Offender Registration Act, requires persons convicted of specified sex offenses to register with local authorities for life while residing, located, attending school, or working in California. Willful failure to register, as required, is a misdemeanor; or a felony, depending on the underlying offense. Existing law authorizes access to all relevant records pertaining to a registered sex offender for, among others, a probation officer authorized and trained to administer the State Authorized Risk Assessment Tool for Sex Offenders (SARATSO).

This bill would additionally authorize ~~release of~~ *access to* relevant records pertaining to a registered sex offender to a sex offender management professional certified by the California Sex Offender

Management Board, who is authorized to administer the SARATSO but who was trained pursuant to a different provision of law.

~~Under existing law, a person released from state prison after serving a sentence or whose sentence has been deemed served for various crimes, including a serious felony, a violent felony, or a crime where a person is classified as a High Risk Sex Offender, is subject to the jurisdiction of, and parole supervision by, the Department of Corrections and Rehabilitation.~~

~~This bill would also require a person who is released on postrelease supervision and who is subsequently reclassified as a High Risk Sex Offender, to be transferred to the jurisdiction of, and parole supervision by, the Department of Corrections and Rehabilitation.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 290.07 of the Penal Code is amended to  
2     read:

3     290.07. Notwithstanding any other provision of law, a person  
4     authorized by statute to administer the State Authorized Risk  
5     Assessment Tool for Sex Offenders (SARATSO) and trained  
6     pursuant to Section 290.06 or 290.09, and a person acting under  
7     authority from the SARATSO Review Committee as an expert to  
8     train, monitor, or review scoring by persons who administer the  
9     SARATSO pursuant to Section 290.05 or 1203 of this code or  
10    Section 706 of the Welfare and Institutions Code, shall be granted  
11    access to all relevant records pertaining to a registered sex offender,  
12    including, but not limited to, criminal histories, sex offender  
13    registration records, police reports, probation and presentencing  
14    reports, judicial records and case files, juvenile records,  
15    psychological evaluations and psychiatric hospital reports, sexually  
16    violent predator treatment program reports, and records that have  
17    been sealed by the courts or the Department of Justice. Records  
18    and information obtained under this section shall not be subject to  
19    the California Public Records Act, Chapter 3.5 (commencing with  
20    Section 6250) of Division 7 of Title 1 of the Government Code.

21    ~~SEC. 2. Section 3000.08 of the Penal Code, as amended by~~  
22    ~~Section 17 of Chapter 12 of the First Extraordinary Session of the~~  
23    ~~Statutes of 2011, is amended to read:~~

1     ~~3000.08.— (a) A person released from state prison on or after~~  
2     ~~October 1, 2011, after serving a prison term or, whose sentence~~  
3     ~~has been deemed served pursuant to Section 2900.5, for any of the~~  
4     ~~following crimes shall be subject to the jurisdiction of, and parole~~  
5     ~~supervision by, the Department of Corrections and Rehabilitation:~~

6     ~~(1) A serious felony as described in subdivision (e) of Section~~  
7     ~~1192.7.~~

8     ~~(2) A violent felony as described in subdivision (e) of Section~~  
9     ~~667.5.~~

10    ~~(3) A crime for which the person was sentenced pursuant to~~  
11    ~~paragraph (2) of subdivision (e) of Section 667 or paragraph (2)~~  
12    ~~of subdivision (e) of Section 1170.12.~~

13    ~~(4) A crime where the person eligible for release from prison~~  
14    ~~is classified as a High Risk Sex Offender.~~

15    ~~(5) A crime where the person is required, as a condition of~~  
16    ~~parole, to undergo treatment by the Department of Mental Health~~  
17    ~~pursuant to Section 2962.~~

18    ~~(b) Notwithstanding any other provision of law, all other~~  
19    ~~offenders released from prison shall be placed on postrelease~~  
20    ~~supervision pursuant to Title 2.05 (commencing with Section~~  
21    ~~3450).~~

22    ~~(c) Notwithstanding subdivision (a), any of the following~~  
23    ~~persons released from state prison shall be subject to the~~  
24    ~~jurisdiction of, and parole supervision by, the Department of~~  
25    ~~Corrections and Rehabilitation for a period of parole up to three~~  
26    ~~years or the parole term the person was subject to at the time of~~  
27    ~~the commission of the offense, whichever is greater:~~

28    ~~(1) The person is required to register as a sex offender pursuant~~  
29    ~~to Chapter 5.5 (commencing with Section 290) of Title 9 of Part~~  
30    ~~1, and was subject to a period of parole exceeding three years at~~  
31    ~~the time he or she committed a felony for which they were~~  
32    ~~convicted and subsequently sentenced to state prison.~~

33    ~~(2) The person was subject to parole for life pursuant to Section~~  
34    ~~3000.1 at the time of the commission of the offense that resulted~~  
35    ~~in a conviction and state prison sentence.~~

36    ~~(d) Except as described in subdivision (c), a person who is~~  
37    ~~convicted of a felony that requires community supervision and~~  
38    ~~who still has a period of state parole to serve shall discharge from~~  
39    ~~state parole at the time of release to community supervision.~~

~~(e) If, after release from prison, a person on postrelease supervision pursuant to Title 2.05 (commencing with Section 3450) is reclassified as a High Risk Sex Offender, the person shall be transferred to the jurisdiction of, and parole supervision by, the Department of Corrections and Rehabilitation. The person shall be granted credit toward his or her period of parole supervision for any time spent on the postrelease supervision prior to the reclassification and transfer of supervision.~~

~~(f) This section shall be operative only until July 1, 2013, and as of January 1, 2014, is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.~~

~~SEC. 3. Section 3000.08 of the Penal Code, as amended by Section 18 of Chapter 12 of the First Extraordinary Session of the Statutes of 2011, is amended to read:~~

~~3000.08. (a) Persons released from state prison prior to or on or after July 1, 2013, after serving a prison term or, whose sentence has been deemed served pursuant to Section 2900.5, for any of the following crimes shall be subject to parole supervision by the Department of Corrections and Rehabilitation and the jurisdiction of the court in the county where the parolee is released or resides for the purpose of hearing petitions to revoke parole and impose a term of custody:~~

~~(1) A serious felony as described in subdivision (c) of Section 1192.7.~~

~~(2) A violent felony as described in subdivision (c) of Section 667.5.~~

~~(3) A crime for which the person was sentenced pursuant to paragraph (2) of subdivision (c) of Section 667 or paragraph (2) of subdivision (c) of Section 1170.12.~~

~~(4) A crime where the person eligible for release from prison is classified as a High Risk Sex Offender.~~

~~(5) A crime where the person is required, as a condition of parole, to undergo treatment by the Department of Mental Health pursuant to Section 2962.~~

~~(b) Notwithstanding any other provision of law, all other offenders released from prison shall be placed on postrelease supervision pursuant to Title 2.05 (commencing with Section 3450).~~

~~(c) At any time during the period of parole of a person subject to this section, if a parole agent or peace officer has probable cause~~

1 to believe that the parolee is violating a term or condition of his  
2 or her parole, the agent or officer may, without warrant or other  
3 process and at any time until the final disposition of the case, arrest  
4 the person and bring him or her before the parole authority, or the  
5 parole authority may, in its discretion, issue a warrant for that  
6 person's arrest.

7 (d) Upon review of the alleged violation and a finding of good  
8 cause that the parolee has committed a violation of law or violated  
9 his or her conditions of parole, the parole authority may impose  
10 additional and appropriate conditions of supervision, including  
11 rehabilitation and treatment services and appropriate incentives  
12 for compliance, and impose immediate, structured, and intermediate  
13 sanctions for parole violations, including flash incarceration in a  
14 county jail. Periods of "flash incarceration," as defined in  
15 subdivision (e) are encouraged as one method of punishment for  
16 violations of a parolee's conditions of parole. Nothing in this  
17 section is intended to preclude referrals to a reentry court pursuant  
18 to Section 3015.

19 (e) "Flash incarceration" is a period of detention in county jail  
20 due to a violation of a parolee's conditions of parole. The length  
21 of the detention period can range between one and 10 consecutive  
22 days. Shorter, but if necessary more frequent, periods of detention  
23 for violations of a parolee's conditions of parole shall appropriately  
24 punish a parolee while preventing the disruption in a work or home  
25 establishment that typically arises from longer periods of detention.

26 (f) If the supervising parole agency has determined, following  
27 application of its assessment processes, that intermediate sanctions  
28 up to and including flash incarceration are not appropriate, the  
29 supervising agency shall petition the revocation hearing officer  
30 appointed pursuant to Section 71622.5 of the Government Code  
31 in the county in which the parolee is being supervised to revoke  
32 parole. At any point during the process initiated pursuant to this  
33 section, a parolee may waive, in writing, his or her right to counsel,  
34 admit the parole violation, waive a court hearing, and accept the  
35 proposed parole modification. The petition shall include a written  
36 report that contains additional information regarding the petition,  
37 including the relevant terms and conditions of parole, the  
38 circumstances of the alleged underlying violation, the history and  
39 background of the parolee, and any recommendations. The Judicial  
40 Council shall adopt forms and rules of court to establish uniform

1 statewide procedures to implement this subdivision, including the  
2 minimum contents of supervision agency reports. Upon a finding  
3 that the person has violated the conditions of parole, the revocation  
4 hearing officer shall have authority to do any of the following:

5 (1) Return the person to parole supervision with modifications  
6 of conditions, if appropriate, including a period of incarceration  
7 in county jail.

8 (2) Revoke parole and order the person to confinement in the  
9 county jail.

10 (3) Refer the person to a reentry court pursuant to Section 3015  
11 or other evidence-based program in the court's discretion.

12 (g) ~~Confinement pursuant to paragraphs (1) and (2) of~~  
13 ~~subdivision (f) shall not exceed a period of 180 days in the county~~  
14 ~~jail.~~

15 (h) ~~Notwithstanding any other provision of law, in any case~~  
16 ~~where Section 3000.1 applies to a person who is on parole and~~  
17 ~~there is good cause to believe that the person has committed a~~  
18 ~~violation of law or violated his or her conditions of parole, and~~  
19 ~~there is imposed a period of imprisonment of longer than 30 days,~~  
20 ~~that person shall be remanded to the custody of the Department of~~  
21 ~~Corrections and Rehabilitation and the jurisdiction of the Board~~  
22 ~~of Parole Hearings for the purpose of future parole consideration.~~

23 (i) ~~Notwithstanding subdivision (a), any of the following persons~~  
24 ~~released from state prison shall be subject to the jurisdiction of,~~  
25 ~~and parole supervision by, the Department of Corrections and~~  
26 ~~Rehabilitation for a period of parole up to three years or the parole~~  
27 ~~term the person was subject to at the time of the commission of~~  
28 ~~the offense, whichever is greater.~~

29 (1) ~~The person is required to register as a sex offender pursuant~~  
30 ~~to Chapter 5.5 (commencing with Section 290) of Title 9 of Part~~  
31 ~~1, and was subject to a period of parole exceeding three years at~~  
32 ~~the time he or she committed a felony for which they were~~  
33 ~~convicted and subsequently sentenced to state prison.~~

34 (2) ~~The person was subject to parole for life pursuant to Section~~  
35 ~~3000.1 at the time of the commission of the offense that resulted~~  
36 ~~in a conviction and state prison sentence.~~

37 (j) ~~Parolees subject to this section who are being held for a~~  
38 ~~parole violation in a county jail on July 1, 2013, shall be subject~~  
39 ~~to the jurisdiction of the Board of Parole Hearings.~~

1     ~~(k) Except as described in subdivision (c), a person who is~~  
2     ~~convicted of a felony that requires community supervision and~~  
3     ~~who still has a period of state parole to serve shall discharge from~~  
4     ~~state parole at the time of release to community supervision.~~

5     ~~(l) If, after release from prison, a person on postrelease~~  
6     ~~supervision pursuant to Title 2.05 (commencing with Section 3450)~~  
7     ~~is reclassified as a High Risk Sex Offender, the person shall be~~  
8     ~~transferred to the jurisdiction of, and parole supervision by, the~~  
9     ~~Department of Corrections and Rehabilitation. The person shall~~  
10    ~~be granted credit toward his or her period of parole supervision~~  
11    ~~for any time spent on the postrelease supervision prior to the~~  
12    ~~reclassification and transfer of supervision.~~

13    ~~(m) This section shall become operative on July 1, 2013.~~